

IN THE CLAIMS

Cancel claims 5 and 7 without prejudice.

Amend the following claims:

1. (Amended) A stabilizer for implanting in the disk space between adjacent vertebrae of a patient to stabilize the vertebrae comprising:

an elongate implant having a substantially rectangular cross-sectional shape with a minimal height defined by first and second sides and a maximal width defined by third and fourth sides, the third and fourth sides being arched from one end of the implant to the other;

a lock [having] defining a bearing surface [formed thereon];

[means] a bolt for mounting said lock to one end of [the] said implant to [prevent] resist rotation of [the] said implant in the disk space when [the] said implant is inserted into the disk space and rotated so that the third and fourth sides of [the] said implant and the bearing surface of said lock contact the adjacent vertebrae;

a key formed on [the] said lock; and

a keyway formed on said implant for receiving said key therein, said keyway having a mouth wider than the width of said key for facilitating insertion of said key therein.

3. (Amended) The stabilizer of claim 1 wherein both the first and second sides of [the] said implant are provided with said keyways.

6. (Amended) The stabilizer of claim [5] 9 whereing the prongs of [the head of] said applicator are flush with the surfaces of the first and second sides of [the] said implant when the prongs are engaged to the funnel-shaped [portions] portion of said [keyways] keyway.

7-8. (Amended) The stabilizer of claim [7] 1 additionally comprising a lock nut for preventing the loosening of said [lock nut] bolt.

Add the following new claim:

9. A spinal stabilizer and applicator comprising:

an elongate implant having a substantially rectangular cross-sectional shape with a minimal height defined by first and second sides and a maximal width defined by third and fourth sides, the third and fourth sides being arched from one end of the implant to the other;

a lock detachably mounted on said implant and defining a surface for bearing against the adjacent vertebrae;

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a bolt for mounting said lock to said implant to resist rotation of said implant after said implant is inserted into the disk space and rotated so that the third and fourth sides of said implant and the bearing surface of said lock contact the adjacent vertebrae;

a key formed on said lock;

a keyway formed on said implant for receiving said key therein, said keyway having a mouth wider than the width of said key and a funnel-shaped portion of decreasing width; and

an applicator for detachably mounting to said implant having prongs formed thereon shaped to fit into the funnel-shaped portion of said keyway.

REMARKS

In the Official Action of July 25, 2000, the specification was objected to because of the irregularities in the references to the parent applications. Claims 1-8 were rejected under obviousness-type double patenting grounds over Applicant's prior patent Nos. 5,893,890 and 5,658,336. Claims 5 and 6 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and claim that which Applicant regards as the invention. Claim 1 was rejected under 35 U.S.C. 102(b) as being anticipated by the Beckers, *et al.* Canadian patent application ("Beckers"). It was also indicated that claims 2-4 and 7-8 were allowable if rewritten to include all the limitations in the base and any intervening claims and that claims 5 and 6 would be allowable if rewritten to obviate the §112 rejection. The rejections/objections set out in the Action are respectfully traversed for the reasons set out below.

First with regard to the objection to the specification, Applicant has amended the first paragraph of the application to refer to the applications from which Applicant claims the benefit under 35 U.S.C. 120 and to update that information with references to Applicant's issued patents. Reconsideration and withdrawal of that objection is respectfully requested in light of this amendment of the specification.

With regard to the obviousness-type double patenting rejection of claims 1-8, a Terminal Disclaimer is enclosed for entry in the application. Please note that the Terminal Disclaimer was executed by the Assignee of the captioned application and that an Assignment of the application is transmitted with this Response for recordation in the Office. Reconsideration and withdrawal of this rejection is therefore also respectfully requested.

Responsive to the rejection of claim 5 under §112, claim 5 has been extensively amended as set out above to affirmatively recite the applicator. Reconsideration and withdrawal of this rejection is respectfully requested in light of this amendment.